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The Environmental Pollution President

By Henry A. Waxman

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On Earth Day, President Bush said that the main environmental accomplishment of his Administration was "proposing, negotiating and signing into law a new Clean Air Act that will cut sulfur dioxide emissions in half, reduce toxic air emissions and clean up smog in cities across America."

What he didn't say was that in less than a year and a half, his Administration has broken the law 35 times in failing to issue regulations needed to carry out the act. He forgot to mention that his Administration refuses to control toxic lead emissions from incinerators or cancer-causing fumes from motor vehicles.

And this week he is expected to weaken the act further by giving major air polluters the power to increase allowable pollution levels.

Since adoption of the Clean Air Act in 1990, the Administration has repeatedly violated the law to bestow political favors. Campaigning in Texas last month, the President announced he would relax controls on nitrogen oxide emissions from power plants. One week later, he went to Michigan and told auto executives he would exempt them from controls on benzene emissions required by the law.

Even worse, Administration officials have not kept a wall between personal interests and official duties. Vice President Dan Quayle intervened to kill a proposal under the act to recycle newspapers — even though his family trust had a multimillion-dollar investment in a paper mill, which profited from reduced competition with makers of recycled newsprint. His top aide, Allan Hubbard, changed a proposal to monitor sulfur dioxide emissions that was opposed by a company in which he owns stock.

I praised President Bush when he announced the new clean-air legislation in June 1989. Then I watched with dismay as his aides worked behind the scenes to weaken it, as when John Sununu, the former chief of staff, led a legislative effort to derail the Presi-

Bush is quietly gutting the Clean Air Act.

dent's alternative fuels program.

As the legislative process continued, the President became a bigger and bigger obstacle. He fought efforts to strengthen controls on urban smog and toxic emissions. He opposed

tighter controls on ozone-depleting chlorofluorocarbons. His aides lobbied against proposals to reformulate gasoline to make it cleaner. But in the end, he lost most of these battles. Congress passed a much-strengthened Clean Air Act, and the President, to his credit, did not veto it.

Now the new law may become an empty vessel. Rather than carrying it out, the White House is illegally seeking to rewrite it through the regulatory process. This effort is led by the Vice President's Council on Competitiveness, which meets in secret with industry lobbyists to set a deregulatory agenda at odds with the Clean Air Act.

The requirement currently at the top of the Competitiveness Council's hit list is a proposal by the Environmental Protection Agency to require major air polluters to obtain pollution permits. The council forced the E.P.A. to insert a loophole allowing permit holders to increase pollution levels and rewrite important terms without public scrutiny.

This loophole is brazenly illegal. The Clean Air Act states that there must be "opportunity for public comment and a hearing... of permit actions, including... revisions." Although seemingly technical, the loophole strikes at the act's heart. Permits control urban smog, toxic emissions, acid rain and ozone-depleting chemicals. A weak permit program undermines nearly all of the gains achieved by the act.

The E.P.A. recognized the problem. Last August, the agency's general counsel took the unprecedented step of declaring in an interoffice memo that the loophole was "highly unlikely" to survive court challenge. In October, the E.P.A. Administrator, William Reilly, sent a new proposal to the White House that eliminated the loophole.

The permit rule has become the battlefield for control of environmental regulations. The final rule was required by law to be issued last November, but the Competitiveness Council has refused to let Mr. Reilly do so unless he reinstates the loophole. Now the matter is before the President, who will probably side with big business and the Competitiveness Council, despite the absence of any legal support for this decision.

The President's calculus is entirely political. He thinks few people are paying much attention to complicated regulatory issues. He feels he can please important corporate supporters by undermining the Clean Air Act without tarnishing his claim to be the environmental President.

Ultimately what is at stake is much more than the permit rule or even the Clean Air Act. Our constitutional system is undermined if the President can ignore with impunity the requirements of a law that took a decade of public activism to enact. □

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